

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LEONARD NESSEL,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 10-cv-12504

HONORABLE STEPHEN J. MURPHY, III

ORDER ADOPTING REPORT AND RECOMMENDATION (docket no.16),
GRANTING THE COMMISSIONER'S MOTION FOR SUMMARY
JUDGMENT (docket no. 15), **AND DENYING NESSEL'S**
MOTION FOR SUMMARY JUDGMENT (docket no. 10)

Leonard Nessel filed this civil action pursuant to 42 U.S.C. § 405(g) to challenge the Social Security Administration's denial of disability benefits. The matter was referred to a magistrate judge for all pretrial proceedings. Both Nessel and the Commissioner filed cross-motions for summary judgment. The magistrate judge issued a Report and Recommendation ("Report") after taking the motions under consideration. He suggests that the Court grant the Commissioner's motion, deny Nessel's motion, and dismiss the case. Nessel did not file timely objections to the Report.

Civil Rule 72(b) governs review of a magistrate judge's report and recommendation. De novo review of the magistrate judge's findings is only required if the parties "serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2). Nevertheless, because a district judge always retains jurisdiction over a motion after referring it to a magistrate judge, he is entitled to review the magistrate judge's findings of fact and conclusions of law on his own initiative. See *Thomas v. Arn*, 474 U.S. 140, 154 (1985) (clarifying that while a district court judge need not review a report and

recommendation “de novo if no objections are filed, it does not preclude further review by the district judge, sua sponte or at the request of a party, under a de novo or any other standard”).

Nessel did not file timely objections to the Report. Therefore, no de novo review of the motions is required. Having reviewed the Report's analysis, in light of the administrative record developed in this case, the Court finds that its conclusions are factually based and legally sound. Accordingly, it will adopt the Report's findings, and enter an appropriate judgment dismissing the action.

WHEREFORE, it is hereby **ORDERED** that the Commissioner's motion for summary judgment (docket no. 15) is **GRANTED**, Nessel's motion for summary judgment (docket no. 10) is **DENIED**, and the complaint is **DISMISSED WITH PREJUDICE**.

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: June 29, 2011

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on June 29, 2011, by electronic and/or ordinary mail.

Carol Cohron
Case Manager